

Appeal from decision of the Eastern States Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer. ES 20114.

Set aside and remanded.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:  
Known Geological Structure

Where a noncompetitive oil and gas lease is rejected on the ground that the land lies within an undefined known geologic structure, but the Geological Survey indicates its willingness to amend such classification based on verification of information to be supplied by the offeror, the case will be remanded for further consideration.

APPEARANCES: William K. Holmes, Esq., Warner, Norcross & Judd, Grand Rapids, Michigan, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

This appeal is from a decision dated May 15, 1979, by the Eastern States Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer ES 20114.

The offer, appearing on the November 1, 1979, simultaneous list as parcel No. 634, was for SW 1/4 NE 1/4 of sec. 19, T. 33 N., R. 2 E., Michigan meridian, Presque Isle County, Michigan, containing 40 acres.

The decision rejected the offer based on 43 CFR 3101.1-1, stating that the lands were within an undefined known geologic structure (KGS) of a producing gas field.

Appellant's argument on appeal is that the land is not now and never has been within a KGS. Appellant states that two producing wells have been drilled in the vicinity of the lands covered by his application. Appellant asserts that each of these wells was completed in the Silurian Niagaran formation in a geological trap known as a pinnacle reef. Appellant concedes that the pinnacle reef is a KGS but contends that the lands applied for are not within this structure. Appellant states:

The presence of two productive wells, each located approximately one-quarter mile from the subject property, does not indicate that the pinnacle reef or reefs penetrated by such wells extend beneath that property. Completion of the State No. 2-19 Well as a dry hole at a location between the producing State No. 2-19A and the subject property is a clear indication that the reef penetrated by the productive well does not extend to the North under the Federal lands. The top of the Niagaran formation in the dry hole is 188 feet lower than the top of the Niagaran formation in the producing well No. 2-19A. With this tremendous rise in structure to the South from the dry hole, it is clear that the structure builds in a Southerly direction.

Appellant's conclusions are based on the evaluations of three petroleum geologists whose qualifications and reports appellant has attached to his statement of reasons. One of the reports states that the operations of Shell and Getty Oil Companies in the vicinity of these lands, particularly a dry hole completed by Shell immediately south of the subject lands, are clear and convincing evidence that the geological structure into which the producing wells were completed does not extend under the Federal land. By letter dated September 25, 1979, the Board asked the Geological Survey (GS) to respond to appellant's submittal.

GS replied, stating that the classification of the lands in question as an undefined KGS, was "based solely on the fact of nearby production and not on the evaluation of geologic subsurface information." The response of GS further stated:

Since a Defined Known Geologic Structure determination requires considerable geologic interpretation based on geophysical and geologic data which is not made available to the government by operators on private lands surrounding these small Federal tracts, the determination that lands are in a Defined Known Geologic Structure (i.e. that the reservoir boundaries have been determined by GS personnel) cannot routinely be made.

This is the case for section 19, SW 1/4 NE 1/4, T. 33 N., R. 2 E., Michigan Meridian, which is adjacent to the 40 acre parcel containing the producing well, State No. 2-19A. If the appellant will submit the necessary seismic data, geophysical logs, mud logs, drilling logs etc. from 2-19 Ledges Farms-State-Allis well and the directional well drilled from it, 2-19A, then a review of the Undefined KGS determination could be done based on this additional data and if the appellant's contention that the pinnacle reef structure of section 19, NW 1/4, SE 1/4 T. 33 N., R. 2 E., Michigan Meridian in the subsurface, is verified, the undefined KGS status could be amended.

Since GS indicates its willingness to amend its classification of the lands in issue based on development of further information to be supplied by appellant and verification of appellant's data we believe it is appropriate to remand the case to afford the parties further opportunity to resolve the issue presented by the appeal.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case is remanded for further processing in accordance with the views expressed herein.

Frederick Fishman  
Administrative Judge

We concur:

James L. Burski  
Administrative Judge

Newton Frishberg  
Chief Administrative Judge

